

# **COMMISSION ON APPELLATE COURT APPOINTMENTS**

## **MINUTES**

**December 19, 2012**

**PRESENT:** Chief Justice Rebecca White Berch, Chair; Doug Cole; Joseph Cuffari; Carey Dobson; William Ekstrom, Jr.; J. W. Harris; Jill Harrison; Linda Martin; Michael Rusing; Ted Schmidt; Paul Senseman; Tom Taylor; and, Charie Wallace

**ABSENT:** James Hartdegen, and Phillip Townsend

Chief Justice Berch called the meeting to order at 10:00 a.m. to interview candidates for the vacancy created on Division One of the Arizona Court of Appeals when Judge Ann A. Scott Timmer was appointed to the Arizona Supreme Court.

### **Public Comment**

Chief Justice Berch called for comment from the public on the applicants. She advised the speakers that they would have three minutes to comment and asked that they do not repeat sentiment related by previous speakers for the same applicant.

Danny Adelman spoke on behalf of Foster Robberson.  
Randy Bunker spoke on behalf of Charles Wirken.  
Michael Tannery spoke on behalf of Patricia Sallen.  
Dawn Northup spoke on behalf of Kent Cattani.

### **Approval of November 27, 2012 Minutes**

Chief Justice Berch asked if any member wished to submit changes or additions to the draft minutes of the November 27, 2012 screening meeting. It was moved that the minutes be approved as submitted. The motion was seconded and passed unanimously.

### **Selection of Interview Questions**

At 10:17 a.m. it was moved that the Commission go into executive session to select the questions to be asked of all candidates. The motion was seconded and passed unanimously.

At 10:57, the Commission returned to public session, Chief Justice Berch asked audience members not to reveal the questions being asked of candidates to candidates interviewing later in the schedule, in fairness to all candidates.

## **Disqualifications and Disclosures**

Chief Justice Berch asked the Commission members if there were any additional disqualifications and/or disclosures since the application screening meeting on November 27.

Doug Cole disclosed that he knows Patricia Sallen's husband.

Paul Senseman disclosed that he encouraged Judith Schaffert to apply and that he knows Patricia Sallen's husband. Mr. Senseman added that Bradley Jardine once represented one of his clients.

## **Investigation Reports**

Chief Justice Berch reminded members that sensitive information can be discussed in executive session upon motion and approval by two-thirds of the members in attendance, but encouraged the Commission to conduct as much of its discussion in public session as possible and to hold any items for executive session until the end of the discussion in public session. The Commission then discussed the results of its due diligence investigations of the candidates.

## **Interviews of Applicants**

From 11:30 a.m. to 12:45 p.m., the Commission interviewed Bradley Jardine, Foster Robberson, and Patricia Sallen.

At 12:45 p.m. the Commission recessed for lunch.

From 1:45 p.m. to 3:10 p.m., the Commission interviewed Stephen Hopkins, Charles Wirken, Judith Schaffert, and Kent Cattani.

## **Discussion of Applicants and Interviews**

The Commission discussed the applicants' qualifications and the interviews.

## **Voting on Nominations**

It was suggested that the commission members conduct a non-binding straw poll to determine the interest in each candidate. The results of the straw poll were:

Kent Cattani . 12  
Stephen Hopkins . 4  
Bradley Jardine . 0  
Foster Robberson . 8  
Patricia Sallen . 12

Judith Schaffert . 7  
Charles Wirken . 12

The Commission discussed the results of the straw poll and Chief Justice Berch opened the floor to motions for a nomination list.

J. W. Harris moved that Kent Cattani be placed on the tentative nomination list. The motion was seconded and passed by a vote of 12-0-1 with Chief Justice Berch abstaining.

Doug Cole moved that Stephen Hopkins be placed on the tentative nomination list. The motion was seconded but failed by a vote of 4-7-1 with Chief Justice Berch abstaining.

Jill Harrison moved that Foster Robberson be placed on the tentative nomination list. The motion was seconded and passed by a vote of 8-4-1 with Chief Justice Berch abstaining.

Linda Martin moved that Patricia Sallen be placed on the tentative nomination list. The motion was seconded and passed by a vote of 12-0-1 with Chief Justice Berch abstaining.

Doug Cole moved that Judith Schaffert be placed on the tentative nomination list. The motion was seconded and passed by a vote of 7-5-1 with Chief Justice Berch abstaining.

Mick Rusing moved that Charles Wirken be placed on the tentative nomination list. The motion was seconded and passed by a vote of 12-0-1 with Chief Justice Berch abstaining.

The Commission discussed the results of the vote and Doug Cole moved that a nomination list consisting of **Kent Catanni, Foster Robberson, Patricia Sallen, Judith Schaffert, and Charles Wirken** be approved as the final nomination list for submission to Governor. The motion was seconded and passed by a vote of 11-1-1 with Chief Justice Berch abstaining.

It was then moved that the meeting be adjourned. The motion was seconded and passed unanimously.